THE STRUGGLE FOR REFORM.

THE LAST RING INTRIGUE.

PLOT TO EXPEL GREEN AND CONNOLLY FROM THE CONTROLLER'S OFFICE—THE RING ANXIOUS ABOUT THE EVIDENCES OF FORGERY CONTAINED THEREIN.

Hearing a rumor that a plot was on foot to oust the present Deputy Controller, as well as Mr. Connolly, a TRIBUNE reporter called on Mr. S. J. Tilden last evening to obtain his views on the subject. Mr. Tilden was occupied with very important matters, but said that if the reporter would ask him any questions directly to the point, he would be pleased to answer them. The following colloquy then ensued:

Reporter—What do you know, Mr. Tilden, if anything, in relation to an intrigue said to be on foot to remove Mr. Connolly?

Mr. Tilden—There is such an intrigue, and the object of it is to get rid of Mr. Green as Deputy Controller. It is concocted by men who know the real authors of the crimes which they charge upon Mr. Connolly, and who wish to divert public attention from the real authors and cast blame on Mr. Connolly. Mr. Keyser states that nearly $1,000,000 in warrants made out to him are forgeries as to his indorsement. Now, the receipt of the money upon those vouchers is traceable, not to Mr. Connolly, but to the men who are conspiring to attack him through the press, to intimidate him and force him to resign, that they may put a tool of their own in charge of the finances of this city.

Reporter—How long has this intrigue been on foot?

Mr. Tilden—It is a renewal of the effort made to crush Mr. Connolly by the robbery and burning of the vouchers which took place some time since. It differs only in this, that at that time, the public had not the interest which they now have in keeping an honest man like Mr. Green in possession of the office where he now has full and complete charge. The moment it became public that Mr. Keyser had stated that these were forgeries of his name on the back of a large amount of warrants, an attempt was made to renew the attack on Mr. Connolly.

Reporter—For what reason, Mr. Tilden? For the purpose of getting Mr. Green out of the office of Deputy-Controller, and of screening the guilty parties to whom, when a complete investigation is made, beyond all doubt the receipt of the money taken from the Treasury upon these forged warrants will be traced.

Reporter—Do you now the names of the parties who committed these forgeries?

Mr. Tilden—I think I know who received the money, but I do not think the ends of public justice will be served by discussing that point now.

Reporter—The forged vouchers of which you have spoken are simply the Keyser vouchers, and none other?

Mr. Tilden—I alluded to them only.

Reporter—What names were upon these vouchers?

Mr. Tilden—Mr. Keyser says his name is forged.

Reporter—Has any other name been forged upon these vouchers but his?

Mr. Tilden—Not that I am aware of.

Here the conversation ended, Mr. Tilden excusing himself from further questioning on the plea of important engagements.

THE INGERSOLL SUIT.

HAS THE PLAINTIFF ANY STANDING IN COURT?—ARGUMENTS BY EX-JUDGE FULLERTON AND GEN. BARLOW.

The case of Wm. F. Havemeyer agt. J. H. Ingersoll came up again yesterday before Judge Ingraham in the Supreme Court Chambers, on the motion to show cause why the order requiring defendant to appear and be examined should not be discharged. A long argument ensued upon the capacity of the plaintiff to maintain this action, the defendant claiming first, that the plaintiff has no *status* in court; second, if he has, it is not sufficiently shown; and, third, his papers are not sufficient to bring defendant into court and be examined, even if his right to bring the action be admitted. The case was finally adjourned till to-day at 11 o'clock, when it is expected the argument will be concluded. Yesterday's proceedings were as follows:

Ex-Judge Fullerton—If your Honor pleases, in order that we may be entirely regular upon this motion to vacate this order requiring Mr. Ingersoll to appear and be examined, and make discovery, we desire to have an order to show cause to that effect, and I hand to your Honor the papers.

Judge Ingraham—I declined once to give you that order.

Ex-Judge Fullerton—It is made returnable immediately, so that there will be no delay.

Judge Ingraham—I told you before that I would hear objections to this examination by way of answer, and that is the proper practice. An order to show cause is unnecessary.

Ex-Judge Fullerton—I don't see that it embarrasses the proceeding in any way, but rather facilitates it. We want an opportunity to appeal, and perhaps the other side do also.

Judge Ingraham—If you want to put it in that form for the purpose of appeal, you may consider the order made.

Ex-Judge Fullerton—That is satisfactory. We then bring on this motion to show cause why the order requiring Ingersoll to come forward and make discovery should not be discharged.

Mr. Barlow then read the affidavit of George C. Barrett, which is as follows:

EX-JUDGE BARRETT'S AFFIDAVIT.

NEW-YORK SUPREME COURT.—*Wm. F. Havemeyer, a citizen, &c., agt. James H. Ingersoll and others.—City and County of New-York, ss.:* George C. Barrett, one of the plaintiff's counsel herein, being duly sworn, says that, by chapter 190 of the Laws of 1870 the Supervisors of this county, of which Joseph B. Young who makes an affidavit herein is Clerk, are composed of the Aldermen of the city, with the addition of the Mayor and Recorder. By the third section of said act the Mayor is the presiding officer of said Board, and by the second section thereof he has a vote upon the passage of any resolution ordinance or not. This act was passed April 12, 1870, and the publication of the accounts in the public journals of this city, showing the amount paid out by the County of New-York for supplies furnished to and work done upon the armories and New County Court-House, took place in the month of July, 1871, as deponent is informed and believes. The warrants for such payments are signed by the Controller, countersigned by the Mayor, and also by Joseph B. Young, Clerk of said Board of Supervisors, as expressly provided by Section 6 of said act.

By section 4 of chapter 382 of the laws of 1870, it was expressly provided that all liabilities against the County of New-York incurred previous to the passage of that act should be audited by the Mayor, Controller, and the President of the Board of Supervisors, who was William M. Tweed now President of the Department of Public Works, and that such claims should be paid upon the certificate of such three officials. It was under this authority that a part of the large sums were paid to the defendant, Ingersoll, which the plaintiff herein claims to have been fraudulently paid. That although such publication of such alleged frauds took place in July of the present year, yet deponent has not heard of anything whatever having been done by the City or County or any of its official departments, servants or agents, to recover back the enormous sums thus alleged to have been misappropriated, or to bring the alleged offenders to justice, nor even to investigate such matters, except that in the early part of September, 1871, as deponent best recollects the date, a committee of 15 citizens was appointed to act jointly with a committee of said Supervisors for the purpose of such investigation. That when said committee had gone through a part of the formal investigation of books, and desired to commence the real investigation of the frauds, for which it was pretended that they were brought together, to wit: the examination of witnesses, they applied to said Supervisors, as deponent is informed and believes, and as appears in the public journals as a part of the proceedings of said Board of Supervisors for permission or power to examine witness through such Committee of said Supervisors; such application, as deponent is similarly advised, was violently opposed, and a long and specious paper read by one of said Supervisors, and the whole matter was then referred to a Sub-Committe, which has not since reported, and said Citizens' Committee have not to this day received permission or power to so examine witness, and such power has thus practically been refused to them, at least for the present.

GEO. C. BARRETT.

Sworn to before me, 10th day of Oct. 1871, THOS. J. M. CAHILL, Commissioner of Deeds.

EX-JUDGE FULLERTON'S ARGUMENT.

I suppose that the numerous and learned counsel on the other side do not pretend that their client has any standing in this court by virtue of the act of 1864, to which I shall in the first instance refer, and claim that it is unconstitutional and void, and therefore gives no right to the plaintiff to prosecute this action. If this proposition be maintained, as a matter of course it is the end of this proceeding, because whatever frauds may have been committed on the City and County of New-York, I suppose the learned gentlemen are to seek redress by proper means, and by laws that are constitutional and binding on every citizen. I call your Honor's attention to the third section of chap. 405, Laws of 1864, to be found on page 945. I need go no further than to read the title to the act to prove the proposition that the nature of the third section is not contained in that title; and for that reason we hold that it is an infraction of the provision to which I call attention; in section 16 of article 3, that "no private or local bill passed by the Legislature shall embrace more than one subject, and that shall be embraced in the title." Now, the subject here is not embraced in the title, nor is it referred to in any way.

Judge Ingraham—The power of the plaintiff to bring this action was discussed, I think, in the Foley Injunction case.

Gen. Barlow—Yes, Sir, it was decided after solemn argument that the plaintiff had the right.

Ex-Judge Barrett—Mr. O'Gorman, who was on the other side in that case, argued that very question with great force and ability, and Judge Barnard so decided.

Mr. Root—Judge Barnard refrained from passing upon the question, because he was unwilling to hold the act unconstitutional upon a motion of that kind.

Ex-Judge Fullerton—This question, Sir, has been disposed of in this very Court.

Ex-Judge Barrett—Yes, Sir, in our favor.

Ex-Judge Fullerton—We think not. Now, the Court may recollect the case of Christopher Pullman, who commenced an action against the City of New-York for the purpose of restraining the execution of a lease by one Fernando Wood of premises in Nassau-st. In that case Judge Sutherland, after a solemn argument, gave an opinion sustaining the views we advocate here. [The counsel here read from Judge Sutherland's opinion in support of his argument, and said] We hold that this decision is authority here.

Ex-Judge Barrett—That question was fully argued both as to whether the act had not been reënacted in a proper form, and as to whether Judge Sutherland had not overlooked the decisions of the Court of Appeals, and—

Ex-Judge Fullerton—My friend is talking now *de hors* the record—there is nothing to show for it but the breath of the Judge.

Ex-Judge Barrett—That is the case with the gentleman himself.

Ex-Judge Fullerton—The gentleman is mistaken. The opinion from which I read is signed by the County Clerk.

Mr. Stoughton—We will hear you in regard to this.

Ex-Judge Fullerton—This question must be met now, because if this law be unconstitutional you cannot bring this defendant into Court.

Judge Ingraham—I shall consult Judge Barnard to ascertain whether he decided the question or not. If he did in the other case, I shall not attempt to overrule his decision here.

Mr. Stoughton—Your Honor would not attempt to proceed, where there was a direct contradiction in the decisions of two Judges of this Court, to say that either one was right. We suppose that your Honor will go on and hear it in that case yourself.

Judge Ingraham—I shall consult Judge Barnard, as I said.

A QUESTION OF CONSTITUTIONALITY.

Ex-Judge Fullerton—As I was about to observe, this view of the case does not stand alone upon the decision I have just read. Your Honor will recollect the case in which Baldwin and Cox were concerned. The Controller was authorized by the statute to institute proceedings to set aside any fraudulent judgments obtained against the city, and, under the authority conferred by statute, he made a motion to set aside the judgment in that case, and we made the objection that, in the act of 1863, there was inserted a provision to the effect that the Counsel to the Corporation should alone appear for and represent the Corporation. The General Term held that that law was unconstitutional and the Court of Appeals affirmed that decision. And this is a case exactly in point. There is one distinction, however, between the action they seek to maintain here and the case of Foley referred to. The object of the bill in this case is not, as it was in that, to prevent waste, but to recover back money which, it is alleged, the city has been defrauded of. Now, according to the terms of the act of 1864, if it be constitutional, the plaintiff has the right to bring his action to prevent waste, but that is not this case. So that, even if this act be regarded as having any binding force, they still do not maintain their position in this tribunal. This order is an attempt to get the advantage of the remedies provided by sections 389, 390, and 391 of the code in one proceeding. Section 388 of the code says, "The examination of defendant may be had at any time before trial, etc., but the party to be examined shall not be compelled to attend in any other county than that in which he resides." Section 390 says, "a party may be examined, subject to the same rule of examination as any witness who testifies." Now neither section 391 nor the two preceding sections have any reference to a proceeding for the discovery of books, papers, or documents. There is a separate, independent regulation concerning that, which says that "the Court may order the party to permit plaintiff to take a copy of any books, papers, or documents relating to the merits of the action. Now, rules have been adopted by the Judges of this court to effectuate the remedies provided for by these sections, which state that the application for an examination shall be upon affidavit disclosing the nature of the discoveries sought.

Judge Ingraham—I think the judges understood what they were doing when they made these rules.

Mr. Stoughton—We intend to put it to your Honor whether the rules can overrule the decision of the General Term.

Ex-Judge Fullerton—The words added to the rules, "and that there are entries in the books and papers of which he seeks a discovery," are significant. Now, the gentlemen on the other side do not present affidavits to meet the exigencies of Rules 18 and 19, disclosing the facts and circumstances which they are bound to disclose in order to get a discovery; but they seek to compel this defendant to bring his books and papers into Court without them, thereby avoiding the rules of the Court referred to. So far as this is to be regarded as an examination before trial, it is met by the objection that they cannot do so before issue is joined. The decision in the case of Bell agt. Richmond, 50 Barbour, 571, meets this point squarely and fairly, and disposes of it.

WHAT A CESTUI QUE TRUST CAN DO.

The speaker read from the affidavit of Mr. Havemeyer to show that nothing was asserted in it except upon information and belief. Your Honor, he continued, is not informed that the facts are going to establish such belief, and are not informed that there are any facts. In other words, the affidavit does not meet a single one of the requirements of that rule. It is not pretended to be under it. They seek to evade it, and I trust your Honor will not countenance an attempt to accomplish their purpose by such means. Your Honor will perceive that section 388 of the Code is the only one which provides that anything may be done to enable a party to frame his complaint, and, therefore, if they seek anything for that purpose, they must pursue the remedy under that section, and under that section alone. Now, we will suppose again, for the sake of argument, that the statute of 1864 is constitutional, and that that section is to be enforced; then how do the parties stand? A *cestui que trust* can file a bill over the shoulders of a trustee only in certain instances. First, where a trustee is in complicity with the person who is charged with the fraud. Second, where the trustee has neglected to bring an action for the purpose of preserving the trust property after the facts have come to his knowledge. And third, where he refuses to bring an action, having been requested to do so, and having the facts and circumstances within his knowledge upon which an action may be brought. The case of Bate agt. Gray, 11th New-York Reports, was cited in support of this proposition, the authorities therefore are and have stated them, that the *cestui que trust* cannot file a bill in place of the trustee unless the trustee is in some way derelict in his duty. The question is here presented then in what respect the trustee in this case, the Mayor, Aldermen, and Commonalty, or the Board of Supervisors have been derelict in duty, and what evidence has your Honor of that fact? I will refer to the only clause in the affidavit on that subject.

Mr. Fullerton read from Mr. Havemeyer's affidavit the allegation upon information and belief that the Mayor and Aldermen and Board of Supervisors had willfully and collusively omitted and neglected to take any steps to recover back the money alleged to have been fraudulently paid to Ingersoll, and continued: The question is presented to this Court in this controversy whether any steps will be taken to further this proceeding on the ground that the Board of Supervisors and the Mayor and Aldermen have willfully and collusively omitted to take steps to recover back the money said to be taken by Ingersoll. Upon what would such an adjudication take place? Mr. Havemeyer is a very good citizen, but his judgment is not to be substituted for the judgment of the Court. If he has information leading him to believe that they have neglected their duty, that is not sufficient. Your Honor must determine that question—the facts must be laid before you, and you must pass upon them judicially, and be forced to the conclusion that they have willfully neglected and omitted to discharge their duty. If it is to go forth from this tribunal that such a thing is found, and that judicial action is predicated upon it, it must be based entirely upon the information and belief of Mr. Havemeyer, and what that information was, or upon what that belief was founded the world is not informed. The trustee must be not only derelict, but must have willfully and collusively neglected to take any steps to perform that duty; and before this tribunal shall proclaim to the world that the gentlemen holding these positions of Supervisors, and Aldermen, and Assistant Aldermen of the City and County of New-York have been guilty of such a charge, there ought to be some fact before the Court to warrant such a conclusion. The time has not come when we try cases upon rumor and public accusation. The time has not come when we can compel men to come into Court and testify in reference to his private accounts upon the strength of what is found in the columns of a lying and licentious newspaper.

RUSHING IN WHERE O'GORMAN FEARS TO TREAD.

Mr. Havemeyer could have stated in what respect the Aldermen and the Board of Supervisors have been derelict and failed in their duty. He was not unaided by counsel, and had 69 associated with him, all anxious to punish individuals who had perpetrated a fraud. He had access to the Controller's books, had the aid of the new and zealous Deputy Controller, and had everything at his hand to enable him to find out in what respect they had failed in their duty. And if he has found anything to warrant judicial action, then why not state it? I think we may draw the inference, in the absence of any circumstance or fact, to warrant such conclusion, that no such fact or circumstance existed, or our friends on the other side would have seized on it and placed it in that affidavit as the foundation of the order, instead of mere rumor as false as that place not mentioned in polite society except by clergymen. I stand here to protest against the position that a man may be compelled to come into court to give testimony in a case like this upon the information and belief of one who withholds that information from your Honor. The time has not arrived when such things can be done. My learned friends, they are a quintuple, I believe, who have laid aside, as I understand, all other professional business in order to hunt down men who have perpetrated frauds upon the City Treasury, and I hope they will meet with good success, had access to the Controller's books and to the files of the newspapers, and had the aid of the Committee of Seventy and another committee of lesser numbers, and after investigation from July last down to October, 1871, what facts are they possessed of? Why, they are constrained to come into court with an affidavit, claiming that during all this lapse of time they have failed to collect facts enough to form a complaint in this action, and they cannot proceed for want of information. Have they been derelict in their duty? I take it not. Yet with all this ignorance, they turn upon the corporation and say "you have not done your duty," and accuse it of dereliction of duty for not doing every thing which they have been trying to do, and have not done, because they have not the information necessary to accomplish the end. I say it is unjustifiable, and cannot be maintained. We have evidence in this case that the corporation of New-York are now engaged, and have been for a long time engaged, in getting at the facts necessary for a prosecution of the same character. We have the affidavit of the Corporation Counsel that he has consulted counsel and investigated and done what our friends on the other side have done, with the only difference that they have commenced before they are ready, while he don't propose to commence until he is ready. To paraphrase what our friends have often quoted, "they rush in where O'Gorman fears to tread." If Mr. Havemeyer had seen fit to put in his affidavit the facts and circumstances, if any exist, warranting him in making this charge against the Corporation of New-York and the Board of Supervisors, your Honor might have determined that it was insufficient, and I protest against the substitution of Mr. Havemeyer's judgment for the judgment of the Court.

Mr. Stoughton cited, 1, Walworth, 417, and, 8, Wallace, 73, in support of the points made, and claimed that there was no case to be found where a *cestui que trust* can sue, except for the purpose of enforcing a preventive remedy.

Ex-Judge Barrett—I guess there is no case where the trustee himself paid out the money, and where the trustee cannot be removed by law.

Ex-Judge Fullerton—We have no guessing as to our cases, and they do not exist in parole, like Judge Barnard's, either. And if Judge Barnard's decision is correctly given in THE TRIBUNE, he did not pass upon the constitutionality of the law of 1864.

Ex-Judge Barrett—I hope THE TRIBUNE is not the paper counsel referred to "as lying and licentious," else it would not be proper for him to quote from it.

Mr. Stoughton—I am a citizen and tax-payer, and I think the press have done great service.

Ex Judge Fullerton—So do I, and wish them all success. All that I claim is that after the press have discovered these frauds, these gentlemen should not attempt to convert this Court into a town meeting, nor into a Vigilance Committee for the purpose of having a trial in that way. We want the ordinary mode of pursuing a trial. If Ingersoll has committed a wrong, let him be punished. If he has taken money fraudulently from the City Treasury, it should be recovered, but let it be done according to the laws of the land. A violation of law in giving a remedy would have a far worse effect upon the community than the loss of the treasury of the City and County together. Now, we claim that the plaintiff has no standing in Court; first, because the law of 1864 is unconstitutional; second, because, admitting that law to be constitutional, he does not seek to restrain waste; third, he has shown no right to be here whatever, according to the ordinary rules of these cases. He does not show facts and circumstances showing a right to come into Court. He has no more right, according to the facts developed, to stand in Court to prosecute this action than if he alleged that he was a subject of Her Majesty Queen Victoria. There is another point, which is, that according to this affidavit there are facts and circumstances enough to frame a complaint, and they do not need anything beyond it. It states the amount of money which has been taken from the treasury, who obtained it, and upon what pretense it was obtained.

Ex-Judge Fullerton read Judge Barnard's opinion in the Foley case to show that he did not pass upon the constitutionality of the law of 1864, and claimed that Judge Barnard must have held that he could maintain the action at common law.

GEN. BARLOW'S REPLY.

Under Section 391 of the Code, the defendant, by his counsel, comes here and raises various objections to going on with that examination. He has raised substantially three objections to our proceeding with this examination:

First: The plaintiff has no capacity to sue; that is to say, as a resident and tax-payer of this city he has no standing in Court. *Second:* If he has a standing in Court, it is not sufficiently alleged or proved, or rather that it is disproved, by the affidavits on the other side; that the condition precedent of his right to bring an action—to wit, the refusal of the Trustees, Supervisors, and Common Council—is not sufficiently alleged, or, if it be, it is disproved by their affidavits. *Third:* They say that apart from these two questions, our papers are not sufficient to bring this defendant into Court and subject him to this examination.

Now, has this plaintiff any capacity to sue? I submit that the question cannot be raised, and that your Honor will not entertain it at this stage of the case, which is a mere preliminary stage. The Code provides that where the objection to the plaintiff's capacity to sue appears on the face of the complaint it shall be raised by demurrer, that where it does not it shall be raised by answer, and we submit that it can only be raised under the Code in one of these two ways. We think we are at least safe in saying that your Honor will not at this stage turn us out of Court, unless it is perfectly plain that we have no standing in Court. If there is any doubt, we submit that your Honor might decide the question now. Now my learned friend assumed that the only ground of standing in court on the ground of complaint is not sufficiently alleged, or if it be it is disproved by their affidavits. Third, they say that apart from those two questions, our papers are not sufficient to bring this defendant into Court and subject him to this examination.

THE PLAINTIFF'S CAPACITY TO SUE.

Now, has this plaintiff any capacity to sue? I submit that the question cannot be raised, and that your Honor will not entertain it at this stage of the case, which is a mere preliminary stage. The code provides that where the objection to the plaintiff's capacity to sue appears on the face of the complaint, it shall be raised by demurrer; that where it does not it shall be raised by answer, and we submit that it can only be raised under the code in one of these two ways. We think we are at least safe in saying that your Honor will not, at this stage, turn us out of Court, unless it is perfectly plain that we have no standing in Court. If there is any doubt, we submit that your Honor might decide the question now. Now, my learned friend assumed that the only ground of standing in Court on the ground of the complaint was under Section 3 of the Tax Levy of 1864. We don't rely entirely upon that. Our first proposition is that under the general principles of common law, or of the Courts of Equity, we have a right independent of that statute to come into this Court for this relief, under the circumstances suggested in the affidavit on which we move. If the money of a corporation is stolen or fraudulently taken, the injury is to the corporate body, and not to the citizens thereof, just as in this case, if the money of the city has been appropriated, the injury has been done to the city, and not to the tax-payers. That is of course admitted, but in regard to private corporations, the principle prevails that, on an allegation that the persons who have the right to bring the suit in the name of a corporation, refuse to do so, that they are themselves the guilty persons. We shall be told that the Court of Appeals in this State has decided, in the case of Roosevelt agt. Draper, in 23 of New-York, that a citizen and tax-payer has no standing in court. Now we submit that that case does not cover this. In the first place, this suit of Roosevelt agt. Draper was brought by Roosevelt alone, in his own name as an individual, not on behalf of the citizens and tax-payers. Secondly, the city was not made a party defendant. There was no allegation that the city officers had refused to pursue the guilty persons. It did not appear that the same City Government or city officers who made the fraudulent conveyance were those in power when the suit was commenced, and that, therefore, there was no neglect or omission to sue on their part; that was not a case where the city had refused to pursue the guilty, and therefore the one element of right of *cestui que trusts* was wanting. Now the Court says the plaintiff didn't sue on behalf of others. The Corporation represents the interest liable to be affected by the remedy sought, but the plaintiff does not represent the whole public. We sue on behalf of every one interested with us.

Now, what becomes of the familiar rule of courts of equity that "Where there is a right there is a remedy" if in such a case as we make here we are told that the tax-payer has no remedy whatever short of the remedy by election?

Now, we come to the clause in the Tax Levy of 1864. Section 3 of that act is not within the constitutional provision that no private or local bill passed by the Legislature shall contain more than one subject, and that expressed in its title. Your Honor held in Phillips agt. the Mayor and one or two others that, inasmuch as certain provisions of the Tax Levy related to State Boards and Commissions, created under the authority of State laws, having jurisdiction outside the city and county, the act could not be considered local. This relates to the same Boards. Further, even if the act of 1864 be local, section 3 is not local but general in its nature, and I call your Honor's attention to two cases in the Court of Appeals, which have well settled the law on this subject. The People agt. McCann in 16 N. Y. There it was held that although the act and its title was in the main local, yet there being in it a separate section providing for the course of procedure in the Oyer and Terminer and the Court of Appeals in this State, that section being general was not contaminated or affected by the localness of the other parts of the act, but was to be considered as though it stood by itself, and then would be good without any title at all although in the general act. That principle was carried out in The People agt. Williams, 24, N. Y. Now those two cases have never been overruled, and they decide that one section is not embarrassed by the other sections of the bill provided the section you are considering is in itself general.

HOW TAX-PAYERS ARE AFFECTED.

Now then section 3 is general, although the party declared to be a *cestui que trust* must be a resident here, it is manifest to your Honor that the interests of various persons residing in all parts of the State may be affected by this section 3. Everbody who pays taxes in New-York, wherever he may reside, whether in the State or out of it, has an interest in this provision, which gives another tax-payer, who lives here, the right to call these persons to account for the misappropriation of trust funds. Again, it affects property outside of the city, to wit—the city owns property in the County of Westchester and Putnam, and if that is misappropriated by the Supervisors or Common Council, there certainly exists the right to pursue that property outside the city. Suppose our Police or our Board of Public Works by reason of such misappropriation should come to a stand still, a danger which is actually threatening us, is not every citizen who comes to this State actually interested?

But yet, if this act is local and section 3 is local, your Honor can only declare it unconstitutional provided the act contains more than one subject, and that be not expressed in the title. The title authorizes the Supervisors to raise money for the Corporation and city, and to raise money for expenditures therefor. Now, section 3 is germane to the rest of the bill, that is, it relates to the expenditure of money authorized to be raised. [Counsel recited the case of Sharpe agt. the Mayor, decided by Judge Ingraham.] The argument that this section 3 has a general provision in regard to the expenditure of money is bad, whereas it would be good if restricted to the moneys of 1864. The answer to that is that the title to this bill is perfectly general.

In regard to the examination of this defendant, all that is required is section 391. It used to be held in the Superior Court that no order at all was necessary to bring in a defendant to be examined under this section. Of course then no affidavit is necessary. Now, this new rule (21) settles those two points. By that rule it was provided that there should be an affidavit and an order, and that the examination could be had in order to furnish information for the preparation of a complaint. Now, my friend says that your Honor—in the face of the General Term decision, that this examination can be had before issue—cannot be governed by that rule. Now I say these are rules of the Court expressing the sentiment of the Judges of all the Courts all over the State, and while it is very proper for a Judge at Special Term to be guided by a decision of the General Term, yet it is going too far to say that in no case, however erroneous that decision may have been, or whatever facts may have come to light since, that the Judge at Special Term cannot and will not, under any circumstances, decide in contradiction to a General Term decision. Such decisions are constantly decided against at Special Term. The only question for us is whether we bring ourselves within section 391 of the Code. We first state the nature of our cause of action; i. e., to recover money stolen from the city by Ingersoll, then we disclose the nature of the object sought. Then the Court will see how the same is material to enable us to prepare our complaint, and we swear in our affidavit that it is material. That is all that is required in this rule.

In regard to the objection made yesterday, that we are not entitled to information for the sake of bringing in other parties, because, as he says, it would be another action, and all the discovery we are entitled to is in this action, I say if there is anything in that your Honor might adopt the suggestion of my friend. He said we had not put into it our summons. Now, if that is necessary, your Honor can do it on the spot. Then my friend says the allegations of this affidavit are on information and belief. He contradicts himself. He first said we didn't know enough; he now complains that we know too much to entitle us to relief.

Ex-Judge Fullerton—The gentleman misstates me. I said your information was insufficient to get a standing in Court, but if you had a standing in Court your information was sufficient to form a complaint.

Gen. Barlow took up a newspaper to refer to Mr. Fullerton's speech, but was interrupted by the latter, who said sarcastically—"Don't, I beg of you, refer to that newspaper. If the remarks in that paper are what your Honor and I also said, then we both ought to be put in a lunatic asylum." [Laughter.]

Gen. Barlow, after some further remarks, concluded. Upon announcing that ex-Judge Barrett would close the argument, Judge Ingraham asked what was the necessity of any further argument. In an ordinary case argument by two counsel would be considered sufficient, and half an hour at that. Mr. Stoughton said he had no desire to speak more than thirty minutes. Gen. Barlow insisted either that Mr. Fullerton should close the argument, or that ex-Judge Barrett should speak as well as Mr. Stoughton. He did not care unless they were going to be turned out of court.

Judge Ingraham—I can't turn anybody out of court on this motion.

Ex-Judge Fullerton—The question is whether you are in court to be turned out.

Mr. Stoughton—I hope the Court will excuse me for saying that when I find an application like this sought to be carried, first by overruling an express decision that the law is unconstitutional; second, by overruling the decision of the General Term where your Honor held, in conjunction with Judges Barnard and Cardozo, that such an examination could not be had until after the issue was joined, then I must raise my voice against it.

Judge Ingraham here adjourned the further hearing until 11 o'clock this morning.

EXCESSIVE APPROPRIATIONS.

DEFICIENCIES OF THE GENERAL FUND—THE RESTRICTIONS OF THE TWO PER CENT ACT VIOLATED.

For the first time in many years, the amount of appropriations made for City and County expenses in 1870 largely exceeds the means realized from the Tax Levy and other sources to pay the same. It appears by the report of ex-Deputy Controller Warren to the Joint Investigating Committee that

The total amount of appropriations made for the year 1870 was		$30,906,264 29
To provide means to pay the same, taxes were levied in 1870 amounting to		23,072,556 47
The General Funds of the City and County respectively were charged with the following sums, to wit:		
Gen'l Fund of the Corporation	$5,093,707 82	
General Fund of the County	2,740,000 00	7,833,707 82
Total		$30,906,264 29

But while the General Fund of the Corporation was thus charged and called upon to furnish double the amount it ever supplied before, it actually yielded only $2,490,058 35, leaving a deficiency of $2,603,649 47 in the legitimate means of paying the amounts appropriated. This deficiency appears from Mr. Warren's report to have been brought down as a balance against the General Fund of the Corporation on Dec. 31, 1870, to be made good by some future "sleight of hand" trick of modern financiering, or otherwise.

This year the appropriations as first passed amounted to $31,500,678 08.

The reductions lately made amount to	$2,980,577 41
Leaving the present amount	28,520,100 67
To meet this the Tax Levy is expected to yield the sum of	23,362,527 62
Loans are to be made upon consolidated stocks for	3,157,573 05
Total	$26,520,100 67
Deficiency	2,000,000

The proposition is to charge this $2,000,000 to the General Fund of the Corporation, which, as above shown, was in debt at the end of last year $2,603,649 47. It is probable that the revenues of the General Fund, which consist mainly of the surplus income from Croton Water Rents beyond the interest now payable from those rents, and the interest accruing on back taxes, etc., may produce $2,000,000, but this and more too will be required to make good the deficit in that fund at the close of 1870.

Then there is no *possibility* that the Tax Levy of 1871 will produce the entire amount imposed. It has been customary in former years to provide for deficiences occasioned by erroneous valuations of property and insolvency of parties assessed for taxes on personal estate, by adding about $2\frac{1}{2}$ to 3 per cent to the amount required to be raised.

The following statement shows the amounts added to cover such deficiencies in former years:

In 1867	$615,898 04	In 1870	$493,683 63
In 1868	627,634 05	In 1871	(nothing)
In 1869	603,377 79		

It is not to be disputed that the Tax Levy of 1871 will fail by $500,000 to yield funds sufficient to pay the appropriations based upon said levy. Under these circumstances, the question is frequently heard whether the Board of Apportionment ought not to make a further revision of the appropriations, and reduce the aggregate amount so as to keep within the means legally applicable to the payment thereof. The restriction of expenditures to the amounts appropriated, if the Board of Apportionment may make appropriations for unlimited amounts, regardless of the means of paying the same, is absolutely useless.

THE REPORTED REDUCTION OF APPROPRIATIONS PROVE TO BE MERELY TRANSFERS—THE RING LESS HONEST THAN IT WAS THOUGHT.

The Board of Apportionment, who under the latest laws now make all appropriations for city and county expenditures to be provided for by taxation, appear to have done a pretty extensive business in making such appropriations for the present year. According to the report of Mr. Warren to the Joint Investigating Committee, the amount of the appropriations made by said Board by their resolutions of May 15, 17 and 18, 1871, was $31,500,678 08. But since those appropriations were passed, the following reductions have been made, to wit: By resolution passed Aug. 15, $14,180; Aug. 18, $8,349 11; Sept. 13, $2,958,048 30—$2,980,577 41; making the amount, $28,520,100 67.

Efforts have been made to obtain copies of the proceedings of the Board of Apportionment in order to ascertain what items were reduced or stricken out to the amount of $2,980,577 41, as above stated. But Mr. Secretary Corson says he has been instructed by the Board not to allow their proceedings to be seen by any one.

The *published* minutes, just issued by the New-York Printing Company, say that the reduction of August 15 was not really any reduction, but a transfer of $14,180 from the appropriations for "Judgments" to the account of "Coroner's fees," for payment of the duly audited bills of the Coroner for the first quarter of 1871. The "reduction" of August 18 is represented in the printed minutes as a transfer of $8,349 11 from the appropriations of "Judgments" to the appropriations of "Disbursements and Fees of County Officers and Witnesses." As for the larger reduction—$2,958,048 30—a reporter, who examined the printed minutes very closely, could find no allusion whatever to it.

THE NEW COUNTY AUDITOR.

Abraham L. Earle, the newly appointed County Auditor, was born in Dutchess Co., N. Y. He came to this city when but five years of age, and has been here 48 years. He carried on business for a long time as a provision merchant at No. 514 Washington-st., but retired during the last year, which accounts for his name not being in the Directory. At present he resides at No. 134 West Fourth-st. He was formerly an Old Line Whig, and has been a Republican since the organization of the party. This is the first public office he has ever filled. It was offered to him without any solicitation on his part, and, having had no previous acquaintance with Deputy Controller Green, no one was more surprised at it than himself. Upon inquiry at the Mayor's office yesterday, it was found that Mr. Earle had not filed his oath of office.

ANOTHER EMIGRANT ROBBER GETS HIS DESERTS.

As stated in THE TRIBUNE of yesterday, a large number of emigrant swindlers and politicians of the First Ward were present during McDermott's trial in the Court of General Sessions on Tuesday, and manifested more than ordinary interest in the proceedings. They knew that their future action depended, in a measure, on the result of McDermott's trial, and the announcement, yesterday, that the jury had not agreed was regarded by them as a partial triumph. Before the Jury brought into Court a TRIBUNE reporter called the attention of District-Attorney Sullivan to the fact that the seventh man in the jury had been refused by District-Attorney Sullivan on the trial of Ryan, on the ground that he had personal knowledge of the defendant and his crime. When the Jury came into Court, Recorder Hackett asked the Jury, when the disagreement had been announced, if anything could be done to enable the Jury to come to an agreement, and the foreman said that the Jury, on retiring, stood eleven to one, and only a partial change had been effected during the night. The second juror, explaining that he was not asking for his own information, requested that the evidence of Freeman might be read, and the stenographer was instructed to read from his notes the evidence bearing on McDermott's conversation with Johnson, the complainant, as detailed by Officer Freeman. Freeman testified that when Johnson recognized McDermott as the thief, his remark to McDermott, "You didn't expect to see me again," was met with the reply, "Oh, Yes, I did;" and that the emigrant swindler added: "When you were in the office I was outside of the counter; don't you remember I had on a pair of red slippers?" The disagreeing juror, pointed out by THE TRIBUNE reporter, then rose and revealed himself by asking if that had been positively sworn to. Recorder Hackett announced that his own notes agreed with those of the Stenographer, and he might have added further that he laid particular stress on this testimony in his charge. The juror then agreed with his fellows, and a verdict of guilty was rendered. Recorder Hackett stated that he fully concurred with the verdict, and he knew of no reason why the sentence in the case should be less severe than in the cases of Davis, Liepold and Ryan. The severe sentences imposed by himself, and his colleague, Judge Bedford, would result, he trusted, in a complete breaking up of emigrant swindling.

The law thus triumphed, and McDermott was sentenced to five years in the State Prison. Moore is now the only emigrant swindler against whom there is any definite charge, and he has forfeited his bail and taken refuge in flight. The witness against him, Kornack, the Prussian, is still in the House of Detention, and will stay there as long as Moore chooses to evade the officer who is searching for him armed with a bench warrant.

WHOM THE RING APPEALS TO.

To the Editor of The Tribune.

SIR: It strikes me as a little singular that Judge Fullerton—the man who was put at the head of the packed Committee on Contested Seats at Syracuse and presented the Conkling-Murphy report to the Convention, excluding the Greeley delegation on the ground that they were Tammany Hall Republicans—should now be engaged as counsel for Ingersoll & Co., using his vast legal abilities and cunning to protect them, and cheat the citizens out of the common benefit of the examination, which is being pressed in the interest of good government.

If the regular delegates were Tammany men, and Mr. Fullerton, who acted under the inspiration of Conkling and the Custom-House, was honest in his action, I have no doubt but that there are thousands of people who would like light on the subject of the Ring's present confidence in Fullerton, and an explanation why this is thus.

Very respectfully, A REPUBLICAN, OF NEITHER WING.

New-York, Oct. 10, 1871.

THE RUINED CITY.

SKETCH OF CHICAGO BY JAMES PARTON.

From The Atlantic Monthly, March, 1867.

In 1830 Chicago was what it had been for a quarter of a century—a military post and fur station, consisting of 12 habitations. There was a log fort, with its garrison of two companies of United States troops. There was the fur agency. There were three taverns, so called, much haunted by idle, drunken Indians, who brought in furs and remained to drink up the proceeds. There were two stores supplied with such goods as Indians buy. There was a blacksmith's shop, a house for the interpreter of the station and one occupied by Indian chiefs. All that part of Illinois swarmed with Indians. As many Indian trails then marked the prairie and concentrated at the Agency as there are railroads now terminating in the City of Chicago; for the Indians brought furs to that point from beyond the Mississippi as well as from the great prairies of the North and South. Once a year John Jacob Astor sent a schooner to the post to convey supplies to it, and take away the year's product of fur. Once a week in Summer, twice a month in Winter, a mail rider brought news to the place from the great world on the other side of the lakes. In 1830 there resided in Chicago, beside the garrison and the fur agent, four white families. In 1831 there were twelve families, and when Winter came on, the troops having been withdrawn, the white population moved into the fort, and had a pleasant time of it, with their debating society and balls. In 1832, the taxes amounted to nearly $150, $12 of which were expended in the erection of Chicago's first public building—a pound for stray cattle.

THE POPULATION COMING IN.

But in 1833 the rush began. Before that year closed there were 50 families floundering in Chicago mud. In 1834 there were, as it appears, nearly 2,000 inhabitants in the town, and in 1835 more than 3,000. Chicago, for 15 years after it commenced its rapid increase was, perhaps, of all prairie towns the most repulsive to every human sense. The place was in vile odor, even among the Indians, since the name they gave it—Chicago—if it does not mean skunk, as some old hunters aver, signifies nothing of sweeter odor than wild onion. The prairie on that part of the shore of Lake Michigan appears to the eye as flat as the lake itself, and its average hight above the lake is about six feet. A gentleman who visited Chicago in 1833 reports that he waded the last eight miles of his journey in water from one to three feet deep—a sheet of water extending as far as the eye could reach over what is now the fashionable quarter of Chicago and its most elegant suburbs. Another traveler records that in 1831, in riding about what is now the very center and heart of the business portion of the city, he often felt the water swashing through his stirrups. Even in dry Summer weather, that portion of the prairie was very wet, and during the rainy seasons no one attempted to pass over it on foot. "I wouldn't have given sixpence an acre for the whole of it," said a gentleman speaking of land, much of which is now held at $500 a foot. It looked so unpromising to farmers' eyes, that Chicago imported a considerable portion of its provisions from the eastern shores of Lake Michigan, as late as 1838. Chicago, that did this only 28 years ago, now feeds States and kingdoms.

Chicago cannot claim the credit of the improvement of the harbor in 1833 and 1834, which first called the attention of the country to that frontier post. The United States spent $30,000 in 1833 in dredging out the Chicago River, and in the Spring of 1834, a most timely freshet swept away the bar at the mouth of the river, making it accessible to the largest lake craft. This made Chicago an important lake post at once. The town had taken its first stride toward greatness. In 1836 the population was 4,000.

THE FIRST LOCOMOTIVE.

It was in April, 1849, eighteen years ago, that the whistle of the locomotive was first heard on the prairies west of Chicago; and this locomotive drew a train to a distance of ten miles from the city, amid the cheers of the people who had little to lose, and the forebodings of most of those who had much. The railroad system of which Chicago is a center now include 8,000 miles of track, and the railroad system of which Chicago is *the* center embraces nearly 5,000 miles of track. Not less than 200 trains now arrive and depart in a day and night. There are 16 points on the Mississippi which have railroad communication with Chicago. The Illinois Central, with its 700 miles of road, lays open the central part of the long State of Illinois, and has brought into culture nearly 200,000,000 acres of the best land in the world. The straight road to St. Louis renders accessible another line of Illinois counties, besides "tapping" the commerce of the Missouri River at Alton, and that of the Lower Mississippi at St. Louis. Other roads stretch out long arms into the fertile prairies of Iowa, Wisconsin, Minnesota, Missouri, and extend far toward the mining region of Lake Superior; and on whatever lines railroads are building, or contemplated to the Pacific, Chicago means to be ready with facilities for reaping her natural share of the advantages resulting from their completion.

During the last three years the number of cattle received in Chicago from the prairies and sent away in various forms to the East has averaged about 1,000 for each working day. In one year—the last year of the war—92,459 of these cattle were killed, salted, and barreled in Chicago. Nevertheless, a person might reside there for years and never suspect that any business was done in cattle, never see a drove, never hear the bellow of an ox.

STOCK AND LUMBER.

At the stock-yard, a few steps from the hotel, is the Cattle Exchange, a spacious and elegant edifice of yellow stone, wherein there is a great room for the chaffering or preliminary "gassing" of buyers and sellers; also, a bank for cattle men's use, with a daily business ranging from $100,000 to $500,000; also, a telegraph office, which reports from time to time the price of beef, pork, and mutton in two hemispheres, and sends back to the cattle markets of mankind the condition of affairs in this, the great bovine city of the world. There is one commodity in which Chicago deals that makes a show proportioned to its importance. Six hundred and fourteen millions of feet of lumber, equal to about 50,000,000 of ordinary pine boards, which Chicago sold last year, cannot be hidden in a corner. The prairies, to which nature has been so variously bountiful, do lack this first necessity of the settler, and it is Chicago that sends up the lake for it and supplies it to the prairies. Miles of timber yards extend along one of the forks of the river; the harbor is choked with arriving timber vessels; timber trains shoot over the prairies in every direction. To economize transportation, they are now beginning to dispatch timber in the form of ready-made houses.

While this great business has been forming, Chicago itself has undergone many and strange transformations. The population which numbered 70 in 1830, was 4,853 in 1840. During the next five years it nearly trebled, being 12,088 in 1845. In 1850, the year in which the railroad was opened to Elgin, the population had mounted to 29,963, and during the next 10 years it quadrupled. In 1860, 110,973 persons lived in Chicago. In 1865, after four years of war, the population was 178,900. In the Spring of 1867, including the suburban villages, which are as much Chicago as Harlem is New-York, we may safely put down the population at 230,000.

APPEARANCE OF THE CITY.

Chicago, already a handsome town, is going to be one of the most beautiful cities in the world. Twenty years ago, when the present Court-House, or City Hall, was built, the corporation sent all the way to Lockport in the State of New-York for the stone, a dark granite. Long before the people had done boasting of this grand and gloomy edifice, the men who were digging the canal at Athens, 14 miles from the city, struck a deposit of soft, cream-colored stone, which proved to be an inexhaustible quarry. For some time this stone was supposed to be useless, and it was regarded only in the light of an obstruction to the excavation of the canal. It was discovered about a year or two after that fragments of the stone which had been exposed to the air for a few months had become harder; and by very slow degrees the truth dawned upon a few interested minds that Chicago had stumbled upon a treasure. It was, nevertheless, with much difficulty that builders were induced to give a trial to what is now recognized as the very best and most elegant building material in the country. The general use in Chicago of this light-colored stone and of the light-yellow brick of the prairie clay, gives to the principal streets a cheerful, elegant, airy aspect, which is enhanced by the promptitude with which all the new and pleasing effects in street architecture are introduced. We do not hesitate to say that the best houses in the leading avenues of Chicago are far more pleasing to the eye than those of Fifth-ave. in New-York, and that the general effect of the best streets is finer. Of course, Chicago is still a forming city. It stretches along the lake about eight miles, but does not reach back into the prairie more than two. In the heart of the town the stranger beholds blocks of stores, solid, lofty, and in the most recent taste, hotels of great magnitude, and public buildings that would be creditable to any city. The streets are as crowded with vehicles and people as any in New-York, and there is nothing exhibited in the windows of New-York which may not be seen in those of Chicago. As the visitor passes along he sees at every moment some new evidence that he has arrived at a rich metropolis. Now it is a gorgeous and enormous carpet house that arrests his attention, now a huge dry goods store or vast depot of groceries. The next moment he finds himself peering into a restaurant as splendid as a steamboat and larger than Taylor's, where, in addition to other delicacies of the season, there is a spacious cake of ice covered with naked frogs reposing picturesquely in parsley. Further on he pauses before a jeweler's, brilliant with gold, silver, diamonds, and pictures, where a single item of last year's business was the sale of 3,200 watches, of which 1,000 were American. The number and extent of the bookstores is another striking feature, and it is impossible to go far without being strongly reminded that pianos and cabinet organs are for sale in the city.

CHICAGO'S RELATION TO THE NORTH-WEST.

Chicago, the inevitable metropolis of the vigorous northwestern third of the prairie world, has taken the lead in rendering the whole of it accessible. Her vocation is to put every good acre in all that region within ten miles of a railroad, and to connect every railroad with a system of ship-canals terminating in the Mississippi and the Atlantic Ocean. That is, has been, and will be for many a year to come Chicago's work; and her own growth will be exactly measured by her wisdom and efficiency in doing it. So far, every mile of railroad has yielded its proportionable revenue to the great prairie exchange and banking-house; and this fact, now clearly seen by every creature in the town, guarantees the execution of the task.

SHIPPING AND COMMERCE.

In some parts of the country railroads have temporarily diminished the importance of water communication. This is not the case with the Great Lakes, nor with Chicago's lion's share of their commerce. It is but yesterday that Aston's single schooner of 40 tuns was the only vessel known to the Chicago River except Indian canoes. Chicago is now more than the Marseilles of our Mediterranean, though Marseilles was a place of note 2,400 years ago. Seventy-seven steamers, 118 barks, 43 brigs, 513 schooners, 53 scows and barges—in all 904 vessels, carrying 218,215 tuns, and employing 10,000 sailors—now ply between Chicago and the other lake ports. Provided thus with the means of gathering in and sending away the surplus products of the prairies, the granery of the world, and of supplying them with merchandise in return, Chicago has for the last few years transacted an amount of business that astonishes and bewilders when she has time to pause and add up the figures. The export of grain, which began in 1838 with 78 bushels, had run up to 6,500,000 in 1853. In 1854, when there were two lines of railroad in operation across the State of Michigan to the East, the export of grain more than doubled, the quantity being nearly 11,000,000 of bushels. From that time the export has been as follows:

Year.	Bushels.	Year.	Bushels.
1854	12,932,320	1860	31,108,759
1855	16,633,700	1861	50,481,862
1856	21,583,221	1862	56,484,110
1857	18,032,678	1863	54,741,839
1858	20,035,166	1864-5	47,124,494
1859	16,771,812	1865-6	53,214,234

THE BOARD OF TRADE.

No body of men in this land were more heartily loyal to their country during the war than the Chicago Board of Trade. Adjoining the great Exchange Room is a smaller apartment handsomely furnished in black walnut for the meetings of the Directors of the Board, and in this room are preserved the flags of the several regiments raised and equipped under the auspices and by the assistance of the Board.

THE PORK-PACKING BUSINESS.

The business of pork-packing, as it is called, which can only be done to advantage on a large scale, has attained enormous proportions in Chicago, surpassing those of the same business in Cincinnati, where it originated. In one season of three months Chicago has converted 904,659 hogs into pork, which was one-third of all the hogs massacred in the Western country during the year.

THE PROGRESS OF MANUFACTURES.

At the present time almost every article of much bulk used upon railroads, in farming, in warming houses, in building houses, or in cooking, is made in Chicago, whose people are feeling their way, too, into making woolen and cotton goods.

THE BOOK TRADE AND PRIVATE LIBRARIES OF CHICAGO.

Chicago was the great literary emporium of the North-West. The entire book trade of the city, including that small portion of the stationery trade which was done by the book houses, amounted to about $3,000,000 per year. The Western News Company, S. C. Griggs & Co., W. B. Keen & Cooke, G. & C. Sherwood, and Cobb, Pritchard & Co. were the leading houses. The first three firms did business side by side in a five-story marble block on State-st., and their premises formed the finest group of book stores in the world. Their stores rented for from $16,000 to $20,000 each per annum. Each was 150 feet deep by 45 wide, with shelves and show-cases crowded, and enormous stacks of books, often twice as high as a man's head, rising from every available square foot of the floor. The Western News Company, which is owned half in New-York and half in Chicago, sold annually about $1,000,000 worth of current literature. The sales of the firm of Griggs & Co., in which Gen. McClurg is a partner, had an annual trade of $800,000. It was not unusual to circulate from Chicago 10,000 copies of a subscription book.

Chicago contained several valuable public libraries, some if not all of which were probably destroyed. The most notable were those of John A. Rice, E. G. Asay, E. B. McCagg, Henry L. Monroe, and Perry H. Smith. Mr. Rice's library contained about 5,000 volumes, including a Dibdin, which cost $1,800 and was the finest in the world. His collection was especially rich in early American imprints, including many works printed by Marmaduke Jonnson at Cambridge, Mass., years before a printing-office was established in Boston; $40,000 was refused for Mr. Rice's library.

Mr. McCagg's library consisted of 6,000 volumes, and was rich in antique treasures and choice engravings. It contained a fine "Purchas's Voyages," and an original (Paris) Jefferson's Notes on America." In a room adjoining the library was Heley's large picture of the Military Conference at Fortress Monroe, in 1865, which contained the best likeness of President Lincoln ever painted. Mr. Asay's library contained about 45,000 volumes. In American history he had one peculiar treasure—the original manuscript correspondence between Washington and James Laurens of South Carolina.

Mr. Monroe's collection included the finest law library in the city, and an exceedingly choice assortment in general literature. Rare and choice works invariably found purchasers at high rates in Chicago. A Boston firm printed, about eighteen months ago, for three Chicago book collectors, a special edition of only *three* copies of Longfellow's "Dante," which cost in the sheets $333 apiece.

THE CHICAGO CHURCHES.

Chicago contained 12 Congregational churches, 20 Episcopal, 9 Evangelical Lutheran, 4 United Evangelical, 5 Jewish congregations, 21 Methodist, 18 Presbyterian, 27 Roman Catholic, 2 Universalist. Many of those are, of course, destroyed.

HOW CHICAGO RESUMES BUSINESS.

To the Editor of The Tribune.

SIR: As a little indication of the go-ahead spirit of Chicago, I send you a copy of the *first and only* telegram received by the American News Company, since the fire, from their house in Chicago, the Western News Company, dated Oct. 11, 1871:

Send two cases steamboat cards.	200 gross Gillott's 303 pens.
$500 worth of Faber's pencils.	100 gross Gillott's 404 pens.
$300 worth of Eagle pencils.	50 gross Gillott's 170 pens.
One case each, 5 and 6, in German S. S. pencils.	100 gross Esterbrook's pens, assorted.
One cask Arnold's quarts.	One cask Arnold's pints and half pints.
$10,000 worth of school books, assorted.	

Not one word about fire or other calamity; simply business; nothing more, nothing less. This "*move on*" spirit made the old Chicago, and will make the new, grander and more beautiful. SINCLAIR TOUSEY, President of the American News Company.

New-York, Oct. 11, 1871.

An estimate made by the Western News Company, about 18 months ago, gives the following as their current sales of each edition of the periodicals named:

Ledger, 25,000 copies; New-York Weekly, 16,000; Saturday Night, 14,000; Harper's Weekly, 5,500; Chimney Corner, 5,000; Western World, 3,500; Fireside Companion, 3,500; Harper's Bazar, 3,000; Day's Doings, 3,000; Frank Leslie's Newspaper, 2,500; Police News, 2,500; Appletons' Journal, 2,400; Waverley Magazine, 2,300; Sporting Times, 1,800; Hearth and Home, 1,000; Spirit of the Times, 500; Nation, 200; New-York Citizen, 75; Harper's Monthly, 7,000; Godey, 4,000; Atlantic, 2,000; Peterson 2,000; Our Young Folks, 1,500; Putnam, 750; Galaxy, 700; Our Boys and Girls, 500; Overland, 250; Lippincott, 200; Riverside, 200.

THE COURTS.

CRIMINAL COURTS.

It was William Messick who was arrested for personating Orlando Warren, and offering himself as "straw bail" in a whisky case, and not Mr. Warren himself, who has never been arrested on any charge whatever, and is regarded as above suspicion.

Mrs. Myers of No. 33 Bayard-st., charged with selling whisky without paying the special tax, was released, yesterday, on her own recognizance, by Commissioner Shields. Mrs. Myers claims that, as she keeps a boarding-house, she has a right to sell whisky to her boarders without paying a tax.

DECISIONS—Oct. 11.

Supreme Court—Chambers—By Judge Cardozo.—In the matter of the habeas corpus for custody of children of Julia O'Connor and Daniel O'Connor.—The children are to be sent to the Catholic Protectory. I think the evidence does not justify their being given to the father; but as that institution in which they now are does not agree with his religious faith a change should be made.

Part II.—By Judge Curtis—Green agt. Hough.—Judgment by default for the plaintiff for $133 88, costs and allowance. Wentworth agt. Anderson.—Judgment for the plaintiff for $471 09, costs and allowance. The Webster Manufacturing Company agt. Barrett.—Judgment for the plaintiff for $164 16, costs and allowance. Sherman agt. Werstell.—Judgment for the plaintiff for $75 46, costs and allowance. Balch agt. Green.—Judgment for the plaintiff, $113 13, costs and allowance. Van Nest agt. Jenkins.—Judgment for the plaintiff for $212 21, costs and allowance.

Part III.—By Judge Alker.—Russell agt. Wier.—Action for alleged ill-treatment at sea.—Judgment for the defendant. Art agt. Levy.—Action for slander.—Judgment for the defendant. Ryan agt. Marsh.—Dismissed by default.

Superior Court—Special Term—By Judge Jones.—Lyons agt. Perkins.—Order granted. Newcomb agt. Laher.—Motion denied without costs. Underwood agt. Erie Railway Co.—Order of reference.

By Judge McCunn.—Duncan agt. Berlin.—Motion for restitution granted. Hart agt. Fitch.—Motion granted. Keveney agt. Excelsior Insurance Co.—Motion for new trial granted on terms. Hamlin agt. Barker.—Order granted.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS—INGRAHAM, J.—Opens at 10 a. m.

99..Wilson agt. Barney. 100..Baker agt. Barney. 126..Bassett agt. Ahorn. 149..In re Henry P. Bainbridge. 152..Hinton agt. Middleton. 162..Fairchild agt. Fairchild. 193..Wilson agt. Wells et al. 194..Beekman agt. Andrews. 208..Campbell agt. Hoffman.

CIRCUIT—BRADY, J.—Court opens at 11 a. m.

342½..Lester agt. Union Manfg. Co. 310..Byrne agt. Judd. 252½..Rockwell agt. Third-ave. R. R. Co. 344..Gt. W. Ins. Co. agt. Com. M. Ins. Co. 223½..Gerding agt. Kobbe. 350..Robinson agt. Chittenden. 356..Fitzgerald agt. Calligan. 100½..Smith agt. Clucas. 352..Stout agt. Strything. 366..Sharpe agt. Lambert. 360..Funal agt. Bracker. 369..Focke agt. Rathe. 368..Guidet agt. Lingeldein. 367..Hort agt. Sibley. 370..Ivemy agt. Dunstoun. 378½..Lacker agt. Bover. 146..Hoffman agt. Wagner. 382..Peck agt. Gardner. 384..Gay agt. Ingersoll. 390..Cockroft agt. Claflin.

SUPERIOR COURT—TRIAL TERM.—PART I.—BARBOUR, J.—Court opens at 11 a. m.

871..Kelly agt. Condict. 677..Palmer agt. Marshall. 1015..Coman agt. Mittnacht. 725..Barbour agt. O'Brien. 1043..Loftus agt. Novelty Iron Works. 827½..Barker agt. Savage. 1121..Fanning agt. Brice. 1189..Steel agt. Page. 1191..Wright agt. Greamer. 1153..Hovey agt. Novelty Iron Works. 1185..Brewster agt. Blumefield. 1201..Jennings agt. Watts. 1203..Quinn agt. Donnell. 1205..Millington agt. Wyman. 1209..Dillar agt. Howes.

TRIAL TERM—PART II.—FREEDMAN, J.—Opens at 11 a. m.

812..Odell agt. Pierce. 1138..Bernheimer agt. Finlay. 1496..The Rector of Church of Redeemer agt. Crawford. 786..Quinn agt. Lloyd. 972..Second Ave. R. R. Co. agt. Henny. 1054..Anderson agt. Babcock. 1064..Marshal agt. O'Brien. 1163..Harrington agt. Cuningham. 1170..Queen agt. Second Ave. R. R. Co. 1172..Dempsey agt. Hall. 1174..Breen agt. Rich. 1180..Hailey agt. Am. Hand Pegging Co.

COMMON PLEAS—GENERAL TERM—C. P. DALY, C. J., LARREMORE, and J. F. DALY, JJ.

17..Beck agt. Allison. 29..Powers agt. Whitty. 33..Asher agt. Park Bank. 78..Leonard agt. Crowe. 79..Parne agt. Tracy. 99..Vosburgh agt. Brewster. 91..Bissick agt. McKensie. 25..Upton agt. Bigelow.

TRIAL TERM—PART I.—VAN BRUNT, J.—Case on.

MARINE COURT—TRIAL TERM—PART I.—GROSS, J.—Opens at 10 a. m.

6696..Rogers agt. Hubbard. 6472..Wilson agt. Nolan. 6595..The Middlefield F. & S. Co. agt. Totten. 6440..Hughes agt. Mahon. 6219..Rand agt. Carlton. 6716..Codling agt. Dennison. 6717..Teague agt. Slattery. 6718..Hermann agt. Walters. 6719..De Leeum agt. Clancy. 6720..Reimer agt. Wouster. 6721..Edwards agt. Wiswall. 6251..Berger agt. Moore. 6722..Seybel agt. Decker. 6723..Schnabl agt. Rauhitschek. 6724..Steinhard agt. Snow. 6725..Newcomb agt. Freund.

PART II.—CURTIS, J.

6447..Bloom agt. Draddy. 6494..Heany agt. Rushworth. 6696..Welch agt. Hirsch. 6574..Maher agt. Hoffman. 6569..McDevitt agt. Rawitser. 6076..Schmenger agt. Schultz. 6342..Hoeim agt. Rothman. 6512..Bucholtz agt. Merthing. 6370..Alexander agt. Fettrecht. 6655..Blummer agt. Bandman. 6696..Legrain agt. Dodd. 6698..Brodt agt. Alexander. 6699..Reinheimer agt. Aaron. 6700..Bissinger agt. Hertlein. 6701..Eagleson agt. De Graf. 6705..Nester agt. Steimle. 6706..Hart agt. Nye. 6707..Darrow agt. Fowler. 6711..Monteith agt. Bucking. ——..Dunne agt. McDonough.

PART III.—ALKER, J.

7497..Morgan agt. Price. ——..Liebman agt. Steinmetz. ——..Liebman agt. Steinmetz.

COURT OF GENERAL SESSIONS.—Before Recorder HACKETT.—Opens at 11 a. m.

1..Carl Frese, homicide. 2..Cornelius McGuire, rape. 3..James S. Dowdy, embezzlement and grand larceny. 4..Isabella Lee, grand larceny. 5..Wm. Wilson, Wm. H. Chapman, Patrick Dunn, grand larceny, and receiving stolen goods. 6..John Williams, larceny from the person. 7..Michael Russe, felonious assault and battery. 8..Joseph Fleure, felonious assault and battery. 9..Antonio Fallelo, felonious assault and battery. 10..Phillip Hartman, felonious assault and battery. 11..Edward Hubbard, felonious assault and battery.

UNITED STATES DISTRICT COURT IN ADMIRALTY—BLATCHFORD, J.—Opens at 11 a. m.

141..Keen agt. Audenried et al. 219..The United States agt. The propeller Thos. Swan. 213..Benedict agt. The steam-tug Niagara. 223..Steelman agt. Richard Hecksher, jr. 214..Leavcroft agt. The schooner Willie Moise. 215..Brett agt. Same. 223..Smith agt. Bonan.

SUPREME COURT—CIRCUIT—KINGS COUNTY.—Nos. 282, 292, 253, 189, 306, 308, 311, 324, 123, 125, 197, 267, 203, 223, 257, 322, 333, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, [illegible] 354, 355, 356, 357, 358, 359, 360, 361, 362, 363.